



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 04080-00
2 October 2000

SGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 6 June 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. The Board also noted that the third officer did, in fact, provide new observations, on the first of the two Addendum Pages that officer submitted. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

04040-00
IN REPLY REFER TO:
1610
MMER/PERB
6 JUN 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
SERGEANT [REDACTED] USMC

Ref: (a) Sergeant [REDACTED] DD Form 149 of 15 Feb 00
(b) MCO P1610.7E

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 25 May 2000 to consider Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 981001 to 990215 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner argues that she was not given five working days to respond to the Reporting Senior's evaluation. She also believes that another injustice occurred when the Third Sighting Officer delayed his comments to allow for additional observation.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. The report has been prepared per the provisions of Chapter 5 of reference (b) (adverse reports). It was properly referred, adjudicated, and third sighted. The petitioner had five working days following referral of the report in which to prepare her rebuttal. She acknowledged the report on Monday, 29 March 1999 and dated/submitted her rebuttal on Monday, 5 April 1999 (the fifth working day). Simply stated, there is no administrative/procedural error.

b. The fact that sighting by the Third Officer did not occur in a timely manner is not material and does not invalidate the evaluation.

c. While the petitioner argues that the report represents an "injustice" and is procedurally incorrect, reference (a) is short on anything to show how or why she should have been rated more than what has been recorded. To this end, the Board concludes that she has failed to establish the existence of either an error or an injustice.

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- 4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Sergeant [REDACTED] official military record.
- 5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps